

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

DERMAINE DAVIS,

Defendant.

8:08CR318

ORDER

This matter is before the court on the oral motion of Eric L. Whitner to withdraw as counsel for the defendant, Dermaine Davis (Davis) and Davis's request for the appointment of counsel (Filing No. 69). The court held a hearing on the motion on October 14, 2008. The court determined the motions should be granted. Mr. Whitner's motion to withdraw is granted and substitute counsel will be appointed.

The court finds Davis is eligible for appointment of counsel pursuant to the Criminal Justice Act, 18 U.S.C. §3006A, and the Amended Criminal Justice Act Plan for the District of Nebraska. Mary C. Gryva, 1823 Harney Street, #201, Omaha, NE 68102, (402) 346-0874, is appointed to represent Davis for the balance of these proceedings pursuant to the Criminal Justice Act. Ms. Gryva shall file her appearance in this matter forthwith. The clerk shall provide a copy of this order to Ms. Gryva and to the Federal Public Defender.

Mr. Whitner shall forthwith provide Ms. Gryva with the discovery materials provided the defendant by the government and such other materials obtained by Mr. Whitner which are material to Davis's defense.

In order to provide new counsel adequate time to consider the filing of pretrial motions, Davis's time to file pretrial motions will be extended to **November 10, 2008**. During the hearing on October 14, 2008, Davis requested such additional time and acknowledged the time provided would be excluded from the computations under the Speedy Trial Act. The additional **time** arising as a result of the granting of the request, i.e., the time between **October 14, 2008 and November 10, 2008**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that counsel require additional time to adequately prepare the case. The

failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

IT IS SO ORDERED.

DATED this 15th day of October, 2008.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge